

Alfred C. Smith
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

2005 MAR 16 AM 9:38

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

) Docket No. FIFRA-08-2005-0001

)

)

CAMPBELL AVIATION, INC.,
a Montana Corporation,

) CONSENT AGREEMENT

)

)

Respondent.

)

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and
Respondent, Campbell Aviation, Inc., by their undersigned representatives, hereby consent and
agree as follows:

1. On January 4, 2005 Complainant issued a Complaint alleging certain violations
of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136 et seq. The
Complaint proposed a civil penalty for the alleged violations section 12(a)(2)(G), 7 U.S.C. §
136j(a)(2)(G).

2. Respondent admits the jurisdictional allegations of the Complaint and neither
admits nor denies the specific factual allegations of the Complaint.

3. Respondent waives its right to a hearing before any tribunal, to contest any issue
of law or fact set forth in the Complaint, or this Consent Agreement.

4. This Consent Agreement, upon incorporation into a final consent order, applies to
and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns.
Any change in ownership or corporate status of Respondent, including, but not limited to, any
transfer of assets or real or personal property, shall not alter Respondent's responsibilities under

this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. Respondent consents and agrees to the payment of a civil penalty in the amount of Four Thousand Four Hundred Dollars (\$4,400.00) in the manner described below in this paragraph:

- a. Payment of Two Thousand Two Hundred Dollars (\$2,200.00) is due on or before March 15, 2005 and a second payment of Two Thousand Two Hundred Dollars (\$2,200.00) is due on or before May 15, 2005. The date each payment is made is considered to be the date of receipt of the payment at the Mellon Bank described below. Payments must be received by 11:00 a.m. EST to be considered as received that day.
- b.. The payments shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the this amount, payable to "Treasurer, United States of America," to:

Regular Mail:

Mellon Bank
Lockbox 360859
Pittsburgh, PA 15251-6859

Federal Express, Airborne, or other commercial carrier.:

U.S. EPA, 360859
Mellon Client Service Center Rm 670
500 Ross Street
Pittsburgh, PA 15262-0001

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004
TREAS NYC/CTR/
BNF=/AC-68011008

Copies of the checks shall be sent to:

Alicia N. Hoegh, Enforcement Attorney
Legal Enforcement Program (8ENF-L)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466

- c. In the event the payments are not received by the specified due dates, **interest accrues from the date of the final consent order, not the due date**, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 61 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 61st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per year penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 151st day from the date the final consent order is signed). Payments are first applied to accrued interest, penalty and/or handling charge; the balance is then applied to the outstanding principal amount.
- e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
- f. Respondent further agrees and consents that if Respondent fails to pay the entire penalty amount as specified in paragraph (a) above, the full penalty amount proposed in the Complaint shall become immediately due and owing by Respondent.

6. The penalty specified in paragraph 5, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

7. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and its implementing regulations.

8. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

9. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other Federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this consent Agreement.

10. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the party he/she represents to the terms and conditions of this Consent Agreement.

11. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

12. Each party shall bear its own costs and attorney fees in connection with this matter.

13. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

In the Matter of Campbell Aviation, Inc,
Docket No. FIFRA-08-2005-0001

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

Date: 03/10/05

By: Carol Rushin
Carol Rushin, Assistant Regional
Administrator, Office of Enforcement
Compliance and Environmental Justice

Date: 03/07/05

By: Alicia N. Hoegh
Alicia N. Hoegh, Enforcement Attorney

CAMPBELL AVIATION, INC.

Date: 03/03/05

By: Michael R. Campbell
Michael R. Campbell,
Authorized Representative for
Campbell Aviation, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **CAMPBELL AVIATION, INC., DOCKET NO.: FIFRA-08-2005-0001** was filed with the Regional Hearing Clerk on March 16, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Alicia Hoegh, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on March 16, 2005, to:

Michael R. Campbell, President
Campbell Aviation, Inc.
P. O. Box 166
Dutton, MT 59433

And pouch mailed to:

Honorable Susan L. Biro
Chief, Administrative Law Judge (1900L)
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-2001

March 16, 2005



Tina Artemis
Regional Hearing Clerk